

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ROBBIE D. JONES,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 04-1523-JJF
)	
COMMISSIONER STAN TAYLOR,)	
WARDEN RICK KEARNEY,)	
SGT. BARRY BILES, and TEANNA)	
BANKS,)	
)	
Defendants.)	

**DEFENDANTS' BILES, BANKS AND KEARNEY'S ANSWER TO THE
COMPLAINT**

COMES NOW, the Defendants Barry Biles and Teanna Banks and Richard Kearney, by and through their undersigned counsel, and hereby respond to the Complaint of Plaintiff Robbie Jones ("Jones" or "Plaintiff"), filed December 16, 2004 (D.I. 2) (the "Complaint"). The Complaint is formatted in paragraphs but not numbered. Therefore Defendants respond to the Complaint by paragraph as follows:

Paragraph No. 1: The allegations of Paragraph No. 1 of the Statement of Claim that begin "The plaintiff was called by C/O Teanna Banks:" The Defendants are without sufficient knowledge or information sufficient to form a belief as to the truthfulness of this paragraph.

To the extent an answer is required, it is specifically denied in its entirety.

Paragraph No. 2: The allegations of Paragraph No. 2 of the Statement of Claim that begin "Sgt. Biles ordered this plaintiff back to housing" The Defendants are without sufficient knowledge or information sufficient to form a belief as to the

truthfulness of this paragraph.

To the extent an answer is required, it is specifically denied in its entirety.

Paragraph No. 3: The allegations of Paragraph No. 3 of the Statement of Claim that begin

“The aforementioned [sic] individual” The Defendants are without sufficient knowledge or information sufficient to form a belief as to the truthfulness of this paragraph. To the extent an answer is required, it is specifically denied in its entirety.

Paragraph No. 4: The allegations of Paragraph No. 4 of the Statement of Claim that begin

“Plaintiff was not given any credit” The Defendants are without sufficient knowledge or information sufficient to form a belief as to the truthfulness of this paragraph. To the extent an answer is required, it is specifically denied in its entirety.

Paragraph No. 5: The allegations of Paragraph No. 5 of the Statement of Claim that begin

“There are occasions” The Defendants are without sufficient knowledge or information sufficient to form a belief as to the truthfulness of this paragraph. To the extent an answer is required, it is specifically denied in its entirety.

RELIEF

Defendants deny that Plaintiff is entitled to any relief.

DEFENSES AND AFFIRMATIVE DEFENSES

1. Plaintiff has failed to state a claim upon which relief can be granted.
2. Plaintiff has failed to exhaust his administrative remedies.
3. Defendants are immune from liability under the Eleventh

Amendment.

5. Defendants are entitled to qualified immunity.
6. As to any claims under state law, Defendants are entitled to immunity under the State Tort Claims Act, 10 *Del. C.* § 4001 *et seq.*
7. As to any claims under state law, Defendants are entitled to sovereign immunity in their official capacities.
8. Defendants cannot be held liable in the absence of personal involvement for the alleged constitutional deprivations.
9. To the extent that Plaintiff seeks to hold Answering Defendants liable based on supervisory responsibilities, the doctrine of *respondeat superior* or vicarious liability is not a basis for liability in an action under 42 *U.S.C.* § 1983.
10. Defendants, in their official capacities, are not liable for alleged violations of Plaintiff's constitutional rights as they are not "persons" within the meaning of 42 *U.S.C.* § 1983.
11. Insufficiency of service of process.
12. Insufficiency of process.
13. Lack of jurisdiction over the person and subject matter.

WHEREFORE, the State Defendants respectfully request that judgment be entered in their favor and against Plaintiffs as to all claims and that attorney fees be awarded to the State Defendants.

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

/s/ Lisa Barchi
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Dated: June 9, 2006

Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on June 9, 2006, I electronically filed *Defendants' Biles, Banks and Kearney's Answer to Complaint* with the Clerk of Court using CM/ECF. I hereby certify that on June 9, 2006, I have mailed by United States Postal Service, the document to the following non-registered participants:

Robbie D. Jones, Inmate
SBI # 313356
Sussex Correctional Institution
Post Office Box 500
Georgetown, DE 19947

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

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